

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7453**

**BILL NUMBER:** HB 1483

**NOTE PREPARED:** Apr 9, 2013

**BILL AMENDED:** Apr 9, 2013

**SUBJECT:** Drug Testing of Recipients of Assistance.

**FIRST AUTHOR:** Rep. McMillin

**FIRST SPONSOR:** Sen. Head

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

- (1) Requires the Office of the Secretary of Family and Social Services Administration (FSSA) to administer a drug-testing program for individuals who are receiving TANF assistance or receiving TANF assistance on behalf of a child.
- (2) Establishes requirements for the program and ineligibility penalties.
- (3) Prohibits an individual who is ineligible to receive TANF assistance under the program from receiving assistance on behalf of a child and provides for an exception.
- (4) Requires the FSSA to collect data to assess and avoid discrimination in the program.
- (5) Requires an owner, vendor, or third-party processor of an automated teller machine (ATM) or point-of-sale terminal to disable access to electronic cash assistance benefits in specified prohibited locations. The bill makes a violation of this requirement a Class B infraction.
- (6) Requires the Division of Family Resources (DFR) to assist owners, vendors, and third-party processors in carrying out this provision.

**Effective Date:** July 1, 2013.

**Summary of NET State Impact:** (Revised) This bill could result in a net increase in state expenditures of approximately \$2.6 M in the first year of implementation. Based on information received from FSSA and certain assumptions, this bill could: (1) increase FSSA drug-testing costs for individuals who test negative on a drug test; (2) increase FSSA administrative expenditures; (3) reduce state TANF expenditures from withheld TANF benefits to finance the costs of positive drug tests and for individuals who do not test negative on two

consecutive drug tests (and are ineligible for TANF benefits for three months); and (4) increase FSSA computer system costs to track individuals who test positive on drug tests. The net impact is summarized in the table below.

<b>Impact on TANF Expenditures (Expenditure Reductions)</b>	
FSSA Drug Testing Costs for Negative Drug Tests	\$401,000
Reduced State TANF Expenditures from Ineligible Individuals	(\$72,000)
Positive Drug Testing Costs to be Withheld from TANF Benefits	(\$215,000)
Estimated Administrative Expenditures	\$1,849,000
Estimated System Costs	\$638,000
<b>Net Impact</b>	<b>\$2,601,000</b>

**Explanation of State Expenditures:** (Revised) *Summary:* Based on information provided by the FSSA for FY 2010 and certain assumptions, this bill could: (1) increase FSSA drug-testing costs for individuals who test negative on a drug test, including immediate family members or designated payees who will receive TANF payments on behalf of an affected child (\$401,000); (2) increase FSSA administrative expenditures (\$1,849,000); (3) reduce state TANF expenditures from withheld TANF benefits to finance the costs of positive drug tests (\$215,000) and for individuals who do not test negative on two consecutive drug tests and thus are ineligible for TANF benefits for three months (\$72,000); and (4) increase FSSA computer system costs to track individuals' drug-testing records (\$638,000). [Note: Information regarding the fiscal impact of this bill is estimated only for the first year of implementation.]

Because it is not known if the state will be able to collect reimbursement from adults who do not receive TANF benefits for themselves, the costs of these positive drug tests could further increase state expenditures above the estimated net increase in state expenditures of \$2.6 M. If the state is unable to collect any reimbursement payments from adults who do not receive TANF benefits for themselves, state expenditures could increase by an additional \$696,000.

This bill could also result in an increase in Medicaid costs to provide outpatient counseling services and inpatient detoxification services for individuals who test positive on a drug test and demonstrate a medical necessity for substance abuse treatment. The state could also see an increase in Healthy Indiana Plan (HIP) enrollment (and costs) for low-income families with children who are no longer eligible for Medicaid through TANF and enroll in HIP for substance abuse treatment coverage. Actual increases in state costs and HIP enrollment are indeterminable.

Further, the FSSA reports administering the Substance Abuse Subtle Screening Inventory test (SASSI) to TANF recipients will increase state expenditures to purchase the tool and will increase workload to train staff to administer the test. The bill also requires the FSSA to collect data to ensure the SASSI test does not discriminate based on race, ethnicity, or sex. The administrative workload of implementing the bill could be distributed across local FSSA offices in the state's 92 counties. To the extent increases in workload are absorbed by existing local FSSA staff, the estimated administrative expenses of implementing the bill could be less than what is reported above.

Additional Information:

(Revised) *Drug Testing Immediate Family Members:* The bill exempts TANF benefits paid on behalf of children. All adults who receive TANF benefits (either for themselves or just for their children) would be subject to the drug-testing program. In instances where these adults fail to test negative and are subject to TANF ineligibility, an immediate family member or designated payee could receive benefit payments for the affected children. As a condition of receiving these benefits, the immediate family member or designated payee must test negative on a drug test. The bill is silent as to whether FSSA will bear the costs for these drug tests, regardless of the outcome. If the FSSA finances at least the costs of the drug tests administered to immediate family members and designated payees, state expenditures are estimated to increase by at least an additional \$121,000.

(Revised) *Recovering Costs of Positive Drug Tests:* According to FSSA, approximately 36% of adults receive TANF benefit payments for themselves and their children and approximately 64% of adults receive TANF payments only for their children. Under the bill, the costs of positive drug tests are to be withheld from TANF benefits paid to benefit-receiving families. Because the bill exempts benefits paid to children, only benefits paid to adults can be withheld to finance the costs of positive drug tests. As a result, it is likely the state may never recoup some of the costs of these positive drug tests from adults who do not receive TANF benefits for themselves.

Actual revenue the state could receive from withheld TANF benefits for positive drug tests is estimated to be approximately \$215,000 from adults who receive benefit payments for themselves and their children.

(Revised) *Program Description:* As a condition of receiving TANF benefits, recipients will be administered the SASSI test which has been reported to be at least 90% effective in determining substance abuse of tested individuals (Lazowski, Miller, Boye, and Miller, 1998). Individuals who receive SASSI scores that indicate a high probability of substance abuse or dependence will be placed in a testing pool from which FSSA is required to test at least 50% of the individuals. The bill specifies that an individual in this pool can only be tested once.

As a condition of continuing to receive TANF benefits after a positive initial drug test, individuals must show they are enrolled in, or on a waiting list for participation in, a substance abuse treatment program. Individuals who do not seek treatment are ineligible for TANF benefits for three months, but can then reapply.

Individuals who test positive and demonstrate enrollment in a substance abuse treatment program can continue to receive TANF benefits, but are subject to monthly drug tests. These individuals will have four months to test negative on two consecutive drug tests. Failure to do so results in three months of benefit ineligibility for the individual. Individuals who test negative on two consecutive drug tests will be placed in a reasonable suspicion pool, 50% of which will be tested monthly.

Anyone who is determined ineligible for TANF benefits for a three-month period can reapply after the ineligibility period is over. Upon reapplication, all individuals will be subject to a drug test and must test negative to receive TANF benefits. Failure to do so results in indefinite ineligibility for TANF benefits for the applicant. Individuals who are determined to be ineligible for TANF benefits can reestablish their eligibility if (1) they provide evidence they have completed a drug treatment program and (2) the individual tests negative on two consecutive drug tests.

It is assumed that if at any time an individual in the reasonable suspicion pool fails a drug test, they will be required to seek substance abuse treatment again. Further, if they participate in substance abuse treatment, it is also assumed they are subject to monthly drug testing and will have four months to test negative on two consecutive drug tests.

*Regulation of ATMs:* The bill requires the DFR to provide assistance to owners, vendors, and third parties regarding disabling access to electronic cash assistance benefits at ATMs located in specific locations. Increases in workload are expected to be completed with existing DFR staffing and resource levels.

*Treatment Cost:* The number of individuals that would seek substance abuse treatment as opposed to dropping TANF benefits is indeterminable. However, individuals with dependent children would be eligible for substance abuse treatment with benefits available through the Medicaid program. With a diagnosis that indicates the medical necessity for substance abuse treatment, Indiana Medicaid would reimburse for outpatient counseling services only. With the exception of inpatient detoxification services, no inpatient drug abuse treatment is reimbursed.

Currently, TANF adults are categorically eligible for Medicaid as a result of their TANF eligibility. If they are no longer eligible for Medicaid through TANF, low-income families with children would remain eligible - custodial adults would have the option of participating in the HIP Medicaid waiver. After December 31, 2013, adults who lose custody of their children may also lose access to Medicaid services, depending on their income level and on the actions of the Centers for Medicare and Medicaid Services (CMS) and the General Assembly with regard to the extension of the HIP waiver or expansion of the Medicaid-covered population in Indiana under the provisions of the Affordable Care Act (ACA) of 2010.

Medicaid is jointly funded by the state and federal governments. The effective state share of program expenditures is approximately 33% for most current services. Current Medicaid medical services are matched by the effective federal match rate (FMAP) in Indiana at approximately 67%. Administrative expenditures with certain exceptions are matched at the federal rate of 50%. Under provisions of the ACA, the enhanced FMAP for an expansion population will be 100% for CY 2014, 2015, and 2016.

*TANF Program:* TANF assistance is shared between the state and federal governments. However, the federal share is provided through a capped block grant allocation with a state maintenance-of-effort (MOE) requirement. TANF block grant allocations are determined on a formula basis with increased flexibility for their use by the states over what was permitted under the prior Aid to Families with Dependent Children (AFDC) Program. The state contributes roughly 1/3 of the benefits in the TANF program.

*Florida Drug-Testing Program:* The state of Florida implemented a drug-testing program that required all applicants and recipients to pass a drug test as a condition of receiving TANF benefits. The Florida program did not use random selection or reasonable suspicion as a means of testing TANF recipients, unlike this bill.

Under the Florida program, individuals were required to pay between \$25 and \$35 for a drug test and were reimbursed if the testing results were negative. The Florida Department of Children and Families (DCF) reported the administration of the drug-testing program was provided without incurring new administrative costs. The Florida DCF also reported that individuals who tested negative for drugs were reimbursed from TANF funds.

Data obtained regarding the Florida program indicates that over the course of the four-month period when the

program operated, a total of 4,086 individuals were administered drug tests with 108 testing positive (2.64%). An additional 40 individuals were scheduled to take drug tests but failed to make their appointment. Florida reports an expenditure of \$118,140 to reimburse the drug-testing costs for individuals who tested negative (approximately \$30 per person per test). Additionally, the program in Florida was reported to yield a net loss to the state of \$45,780 before being found unconstitutional in federal court.

**Explanation of State Revenues:** *Penalty Provision:* Under the bill, owners, vendors, and third-party processors of ATMs in gambling facilities, businesses that specialize in the sale of handguns and firearms, stores that specialize in selling alcohol, and adult entertainment establishments would be required to disable access to electronic cash assistance benefits at ATMs located in their facilities. The bill provides the violation of this requirement is punishable as a Class B infraction. The maximum judgment for a Class B infraction is \$1,000, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

**State Agencies Affected:** FSSA, DCS.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** FSSA TANF Recipient Data for FY 2010; Feldstein, S. W. & Miller, W. R (2007) *Does the subtle screening for substance abuse work? A review of the Substance Abuse Subtle Screening Inventory (SASSI)*. *Addiction*, 102: 41-50; Lazowski, Linda E. & Miller, Franklin G. & Boye, Michael W. & Miller, Glenn A. (1998) *Efficacy of the Substance Abuse Subtle Screening Inventory - 3 (SASSI-3) in Identifying Substance Dependence Disorders in Clinical Settings*. *Journal of Personality Assessment*, 71, Issue 1: 114-128; Joe Follick, Florida Department of Children and Family, (850) 413-0771; Congressional Research Service, *The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions*, Gene Faulk, Specialist in Social Policy, October 11, 2011; Christina Hage, FSSA.

**Fiscal Analyst:** Bill Brumbach, 317-232-9559; Kathy Norris, 317-234-1360.